IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No.109 of 2007
In
Notice of Motion No.2896 of 2006
In
Arbitration Petition No.173 of 2006

Canadian Food Products Pvt.Ltd.
and Anr. .. Appellants
(Org.Petitioner
Nos.3(a) & 3(b).

Vs.

Kaushik Kalyan Mazumdar. .. Respondent

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Shri Birendra Saraf i/b Prakash Panjabi & Co. for the Appellants.

Shri Amol Doijode for the Respondent.

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CORAM : R.M.S.KHANDEPARKAR &
D.G.KARNIK, JJ

DATED : 23RD MARCH, 2007

P.C.

. Heard. This appeal arises from the order dated 6th November, 2006 passed in Notice of Motion No.2896 of 2006 in Arbitration Petition No.173 of 2006 whereby the notice of motion has been disposed of while imposing the costs of Rs.10,000/-. The facts of the case clearly disclose that when the matter was fixed on 19th July, 2006, the parties filed the

consent terms except the appellants herein. The advocate representing the appellants clearly made a statement before the Learned Single Judge that he had no instruction from the appellants in the matter. In those circumstances, merely because subsequent to the order passed by the Learned Single Judge the appellants tried to contend that there was some misunderstanding on the part of another advocate engaged by the appellants themselves, or that certain correspondence which took place between the advocate and the clients were not properly understood by the advocate on record, that by itself cannot be a justification to recall the order which was passed by the Learned Single Judge while accepting the consent terms on 19th June, 2006. As no sufficient case for recall of the order is made out, the Learned Single Judge was justified in disposing the notice of motion. In fact, various contentions which were sought to be raised apparently being after thoughts and on that ground the earlier order was sought to be recalled, the Learned Single Judge was justified in imposing the costs. In the circumstances, we do not find any justification for interference in the impugned order and the appeal therefore fails and is hereby rejected, with no order as to costs.

(D.G.KARNIK,J) (R.M.S.KHANDEPARKAR, J)